

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs) No. 23-CR-183-JFH
)
LANDON JOE BLACK,)
)
 Defendant.)
)

TRANSCRIPT OF
DETENTION HEARING
BEFORE THE HONORABLE D. EDWARD SNOW
UNITED STATES MAGISTRATE JUDGE
OCTOBER 30, 2023

A P P E A R A N C E S

ON BEHALF OF THE GOVERNMENT
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P R O C E E D I N G S

(RECORDING COMMENCED AT 9:29 a.m.)

COURTROOM DEPUTY: The court calls case
CR-23-183-JFH, United States of America v. Landon Joe
Black.

THE COURT: Will the parties enter their
appearance, please?

MR. MAREK: Good morning, Your Honor. Anthony
Marek for the United States.

THE COURT: Hello. Good morning, Mr. Marek.
Welcome back to your courtroom.

MR. JENNINGS: Jarred Jennings on behalf of
Landon Black, who is present and in custody, Your Honor.

THE COURT: Welcome back to your courtroom,
Mr. Jennings.

MR. JENNINGS: Thank you, Your Honor.

THE COURT: All right. Mr. Jennings, I show
that we're here this morning on a detention hearing. Is
that what you believe we're here to do today?

MR. JENNINGS: Yes, Your Honor.

THE COURT: And, Mr. Marek, do you concur?

MR. MAREK: Yes, sir.

THE COURT: All right. Is there anything we
need to do before we hear evidence on this matter?

Mr. Marek?

1 MR. MAREK: Not from the government, Your Honor.

2 THE COURT: All right. Mr. Jennings, anything
3 preliminary to hearing of evidence in this matter?

4 MR. JENNINGS: No, Your Honor.

5 THE COURT: All right. This matter is set
6 before the Court for a detention hearing. For the record,
7 the defendant is in custody and he's appearing in person.

8 Mr. Black, the purpose of this hearing is to
9 determine whether there are conditions of release that
10 will reasonably assure your appearance and the safety of
11 others in the community or whether you must be detained
12 pending trial.

13 Mr. Marek, are there any crime victims who wish to be
14 heard today?

15 MR. MAREK: No, Your Honor.

16 THE COURT: Are both parties ready to proceed?

17 MR. MAREK: Government is ready, Your Honor.

18 MR. JENNINGS: Yes, Your Honor.

19 THE COURT: All right. Government, you may
20 present evidence.

21 MR. MAREK: The United States calls Special
22 Agent Austin McCourt.

23 THE COURT: All right. Agent McCourt if you'll
24 come up here. She'll swear you in.

25 Give me just a moment, Mr. Marek.

1 All right, sir, you may inquire.

2 MR. MAREK: Thank you, Your Honor.

3 AUSTIN MCCOURT

4 having been first duly sworn, testifies as follows:

5 **DIRECT EXAMINATION**

6 **BY MR. MAREK:**

7 Q. Agent McCourt, please state and spell your name.

8 A. Austin McCourt, A-U-S-T-I-N M-C-C-O-U-R-T.

9 Q. Where and how are you employed, sir?

10 A. I am a Special Agent with the Federal Bureau of
11 Investigation in the Eastern District of Oklahoma.

12 Q. Are you familiar with an investigation into a Landon
13 Joe Black?

14 A. Yes.

15 Q. Did this investigation involve a particular website
16 on the Tor network, otherwise known as the dark web?

17 A. Yes.

18 Q. Would you please describe the website without naming
19 it?

20 A. The website is essentially a forum of a discussion
21 group and sexual interest in prepubescent teenage boys.
22 It's a site where you can exchange child sexual abuse
23 material such as images and videos.

24 Q. To be clear, the website facilitated an interest in
25 prepubescent and pubescent boys.

1 A. Yes, sir.

2 Q. How did the users on this website identify
3 themselves?

4 A. Users would have a username, password and they would
5 create a profile on the website.

6 Q. Now that we have a little bit of background on the
7 website, how did the investigation into Landon Black
8 specifically begin?

9 A. A foreign law enforcement entity informed us that
10 there was an IP address that had frequented the website
11 that was based in the United States.

12 Q. Before the foreign law enforcement source, was that
13 IP address tied to a particular user name of the website?

14 A. Yes. It was tied to the user name The Revenant.

15 Q. Was any information able to be discovered about which
16 Internet service provider in the United States serviced
17 that IP address?

18 A. Yes. We were able to identify the Internet service
19 provider as OzarksGo.

20 THE COURT: I'm sorry. Can you say that again?
21 Ozark?

22 THE WITNESS: OzarksGo.

23 THE COURT: Okay.

24 Q. (BY MR. MAREK) And that would be O-Z-A-R-K-S-G-O; is
25 that correct?

1 A. Yes.

2 Q. And the particular user named "The Revenant" on the
3 website, what was the significance of that particular
4 user?

5 A. That user had several posts where he had stated that
6 he had baited underage minors, underage males, into
7 eliciting child sexual abuse material.

8 Q. So there's several postings in which the user had
9 claimed that he had baited certain people.

10 What else did the posts include?

11 A. They included links to images and videos of child
12 sexual abuse material, as well as descriptors of victims
13 that were baited.

14 Q. If a user were on that website and followed those
15 links, what would happen?

16 A. It would take the user to sexual abuse material to be
17 downloaded.

18 Q. You used the term "baiting." Can you describe your
19 understanding of what this particular user meant when the
20 user used the term "baiting"?

21 A. Baiting is essentially acting as a female minor on
22 social media for the purposes of eliciting sexual videos
23 and images from male minors.

24 Q. According to your training and experience and your
25 knowledge of this case, does the word "baiting" imply an

1 element of deception?

2 A. Yes.

3 Q. What steps did the FBI take after receiving the
4 information from the foreign law enforcement source about
5 that IP address?

6 A. The FBI subpoenaed the Internet service provider
7 OzarksGo for the purpose of getting subscriber information
8 for that IP address, which led us to 1215 Ridge Drive in
9 Stilwell, Oklahoma.

10 Q. That's in the Eastern District of Oklahoma, correct?

11 A. Yes, sir.

12 Q. Did the subscriber information provided by OzarksGo
13 indicate the name of the subscriber?

14 A. The subscriber was Sheila Black, who we found out
15 later is the mother of Landon Black.

16 Q. Does the FBI have any way of confirming whether or
17 not a particular Internet subscriber is using the dark web
18 or the TOR network?

19 A. Yes. We were able to confirm that there was dark web
20 traffic coming from the Black address, Black residence.

21 Q. And what next steps were taken in the investigation?

22 A. The FBI executed a search warrant for the 1215 Ridge
23 Drive address in Stilwell where we seized computers,
24 laptops, cell phones, flash drives. We also submitted a
25 search warrant for Landon Black's iCloud account.

1 Q. Were there 2703D court orders obtained for Google and
2 Apple as well?

3 A. Yes, there were.

4 Q. Those were for accounts that the FBI believed to have
5 been controlled by Black.

6 A. Yes.

7 Q. Did the information that you received as a result of
8 the search warrants and court orders provide you with any
9 relevant information?

10 A. Yes. There was a substantial amount of evidence
11 linking Landon Black to the user name, "The Revenant."

12 There was a text document that had user name and
13 password information for The Revenant account.

14 There was also -- The Revenant stored child sexual
15 abuse material on another website on the dark web and
16 login information and password information was found for
17 that website too -- website as well as on Black's devices.

18 Q. Have you reviewed the indictment in this case?

19 A. Yes, I have.

20 Q. And Counts One and Two refer to what we colloquially
21 call Production of Child Pornography. Would you agree
22 with that?

23 A. Yes.

24 Q. And these counts refer to Minor Victim One and Minor
25 Victim Two respectively?

1 A. Yes.

2 Q. Was the FBI able to identify and locate Minor Victim
3 One and Minor Victim Two?

4 A. Yes.

5 Q. Were they both forensically interviewed?

6 A. Yes.

7 Q. Please, summarize what Minor Victim One disclosed in
8 his forensic interview.

9 A. Minor Victim One stated that he was catfished via
10 Instagram by an account supposedly ran by an Emily Jansen
11 when he was approximately 14 years old. He stated that he
12 sent sexual imagery to nobody else but Emily Jansen. He
13 was able to identify the images that he sent to that
14 account on Black's devices.

15 Q. Please summarize what Minor Victim Two disclosed in
16 his forensic interview.

17 A. Minor Victim Two had a similar catfishing story via
18 Snapchat where he was baited by a Jenna Whitely. He, too,
19 had also sent sexual imagery to no one else but the Jenna
20 Whitely Snapchat, and he was able to identify that sexual
21 imagery later on Black's devices.

22 Q. Was Minor Victim Two able to say how old he was when
23 he sent the sexually explicit images of himself to Jenna?

24 A. Approximately 13.

25 Q. Was child pornography depicting Minor Victim One and

1 Minor Victim Two found on Black's devices?

2 A. Yes.

3 Q. When Black's devices were viewed, was any evidence
4 found to suggest that Black controlled social media
5 accounts using the pseudonym Emily Jansen?

6 Q. There was login and password information for the
7 Emily Jansen account as well as the profile picture used
8 on the account that was found on Black's devices as well.

9 Q. And the profile picture that you just described, it
10 was a Snapchat profile screenshot; is that correct?

11 A. Yes, that's correct.

12 Q. Was there also Instagram references to an Emily
13 pseudonym Instagram account on Black's devices?

14 A. Yes, there was.

15 Q. Emily Jansen was the pseudonym that Minor Victim One
16 specifically referred to in his interview; is that
17 correct?

18 A. That's correct.

19 Q. The screenshot that you described of the Snapchat
20 profile, was there anything significant about the
21 screenshot itself?

22 In other words, is that screenshot of the Snapchat
23 account, is that what the user logged into that account
24 would have seen?

25 A. Yes.

1 Q. Was there any evidence found on Black's devices or
2 cloud accounts to suggest that he controlled social media
3 with the pseudonym Jenna?

4 A. Yes. Again, there was log-in information found. The
5 password and user name for that information were found in
6 Landon Black's Apple key chain. The email attached to
7 that specific Snapchat account also came back to Landon
8 Black's iCloud email.

9 Q. That iCloud email being landonlol@iCloud.com?

10 A. Yes.

11 Q. Was there a document found in Black's devices or
12 iCloud account that referred to the name "Jenna?"

13 A. Yes. There was a document called, Girls List Names
14 that had the name Jenna Whitely.

15 Q. And I think you said earlier there were references to
16 a Snapchat account using the name "Jenna" on Black's
17 devices and cloud accounts.

18 A. Yes.

19 Q. And "Jenna" was the pseudonym that was disclosed by
20 Minor Victim Two in his forensic interview?

21 A. Yes.

22 Q. Now, Count Three of the indictment is advertisement
23 of child pornography. Do you agree with that?

24 A. Yes.

25 Q. And the conduct targeted by Count Three are certain

1 posts that The Revenant made on this dark web website; is
2 that correct?

3 A. Yes.

4 Q. And you testified earlier that there was evidence
5 located on the defendant's devices suggesting that The
6 Revenant is, in fact, Landon Black or was; is that
7 correct?

8 A. Yes.

9 Q. Could you describe when you and I use the term
10 "post", what does a post look like? How would you
11 describe what a post is on this website?

12 A. On that website, a post is going to have links to
13 videos and images of child sexual abuse material. It's
14 going to have descriptors about the victim itself,
15 themselves, regarding their age and the manner in which
16 they were baited.

17 Q. Were there occasions when The Revenant in these posts
18 would claim to have baited the victims whose sexually
19 explicit material appeared in the links on that post?

20 A. Yes.

21 Q. And can any member of this website follow these links
22 that The Revenant posted and download child sexually
23 abusive material of these victims?

24 A. Yes.

25 Q. Count Four is possession of child pornography.

1 A. Yes.

2 Q. In addition to the child pornography found on Black's
3 devices and cloud accounts concerning the victims
4 mentioned in Counts One and Two, was there additional
5 child pornography or child sexually abusive material found
6 on Black's devices and cloud accounts?

7 A. There was an additional folder found called "The
8 Vault," which contained a significant amount of child
9 sexual abuse material that was likely being traded. That
10 was not necessarily the same material that he had obtained
11 via baiting in previous . . .

12 Q. In other words, the child pornography that was found
13 in The Vault folder is separate from Counts One, Two, and
14 Three; is that correct?

15 A. Correct.

16 Q. Have you been inside the Black residence at 1215
17 Ridge Drive in Stilwell, Oklahoma?

18 A. Yes.

19 Q. Have you been inside Landon Black's bedroom?

20 A. Yes.

21 Q. Did you observe any weapons in the bedroom?

22 A. In his bedroom we found two firearms. They were the
23 AR-15-style firearm, as well as ammunition. One of the
24 firearms was out in the open, and the other firearm was
25 found in a black, soft-shell gun case.

1 Q. The first weapon is an AR-15 style; is that correct?

2 A. That's correct.

3 Q. And what did the second weapon look like to you?

4 A. I would still call it an AR-15 or AR-10-style weapon.

5 Q. For approximately how long has Landon Black been
6 suspected of possessing or distributing child pornography?

7 A. The foreign law enforcement entity that gave us that
8 IP address we found that IP address was subject to
9 approximately 14 cyber tips dating back to 2019.

10 Q. If you were to summarize the conduct involved in
11 these cyber tipline reports were they possession or were
12 they distribution? How would you summarize most of them?

13 Is there anything that would refresh your
14 recollection along those lines?

15 A. Yes. May I check my notes?

16 Q. Do you have access to the search warrant affidavit on
17 the stand?

18 A. Not on the stand.

19 MR. MAREK: May I approach the witness, Your
20 Honor?

21 THE COURT: Yes, you may.

22 Q. (BY MR. MAREK) Agent McCourt, if you could just read
23 those to yourself and look back up to me when you're
24 finished.

25 Agent McCourt, we don't need to go into the specifics

1 of each report, but how would you summarize what most of
2 the activity was?

3 A. Primarily possession and distribution of child sexual
4 abuse material.

5 Q. And I forgot to ask, was your recollection refreshed
6 by reviewing that portion of the affidavit?

7 A. Yes, it was.

8 Q. In your review of Black's electronic devices and the
9 returns from Apple and Google, did you see the term
10 "Operation Red Lucid" used?

11 A. Yes.

12 Q. Where exactly did you see that term?

13 A. It was referenced in Black's Apple iCloud account as
14 well as his notes.

15 Q. We referred earlier to a landonlol@icloud.com. Is
16 that the same account that we referred to earlier which
17 was the Operation Red Lucid referenced?

18 A. Yes.

19 Q. What was your understanding of what Operation Red
20 Lucid was?

21 A. Operation Red Lucid was the stalking of a minor male
22 online.

23 Q. When you say stalking, could you elaborate on what
24 you mean?

25 A. The information found on the specific target was his

1 name, address, social media contacts, personal contacts,
2 names and birthdays of close family members, including
3 parents and siblings; information about the school
4 district that the potential target was in; pictures of the
5 school itself, including an overhead map of the campus;
6 documentation about the target's class schedule and
7 sporting event schedule.

8 Q. What was the last thing that you said? I'm sorry.

9 A. Documents about the target's class schedule, grade,
10 and sporting event schedule.

11 THE COURT: Let's go ahead and take just a brief
12 break for a second. Can I get you to turn it up if we
13 can?

14 All right. Agent, I'm going to ask you to speak up.
15 What's happened is, is that the record should reflect that
16 we've had the overhead heater come on and it's making it
17 difficult for us to hear you, so I want you to really lean
18 into that mic.

19 As a matter of fact, there's a man sitting in the
20 back of the courtroom there that's wearing a gray shirt.
21 I want you to pretend that microphone doesn't even work
22 and he should be able to hear you without the benefit of
23 the microphone and so let's really kind of talk louder.
24 Of course, they turned it off at this moment, but let's
25 assume that it's going to come back on at any time.

1 THE WITNESS: Yes, sir.

2 MR. MAREK: May I proceed, Your Honor?

3 THE COURT: Please.

4 Q. (BY MR. MAREK) You mentioned that included in the
5 information found about this particular -- I think you
6 used the word "target." That is the teenage boy that
7 appeared to be the subject of Operation Red Lucid; is that
8 right?

9 A. That's correct.

10 Q. That's what you mean when you say "target"?

11 A. Yes.

12 Q. And all this information that was found about this
13 one child was on Landon Black's iCloud account. In what
14 format did you review that information?

15 How was that stored on his iCloud account?

16 A. It was a text document.

17 Q. Within the Operation Red Lucid information, was there
18 any information that led you or other law enforcement to
19 become concerned that Mr. Black was planning on making
20 contact with that child?

21 A. The term "Red Lucid plan" was referenced multiple
22 times in the document. There was also a piece in the
23 document stating step-by-step instructions that whoever
24 carried out the task was to get in make-up that resembled
25 an old man several states away from the target state and

1 then rent a U-Haul in the target state.

2 Q. And moving on from that Operation Red Lucid
3 information, did you find other information in the
4 defendant's accounts to suggest that he had a similar
5 obsession with any other children?

6 A. Yes, there were other similar documents. In one
7 instance, there was another underage male, who we found
8 name, birthday, address information, father's email and
9 contact information, as well as even the amount of rent
10 that was being paid at the property of the target.

11 Q. Did you have a chance to review any information that
12 appeared to be autobiographical in nature where Mr. Black
13 was describing himself or his interests?

14 A. Yes.

15 Q. Could you describe that?

16 A. There was a document where Landon referred to --
17 Landon had stated that he believed he was a pedophile at
18 the age of 15.

19 MR. MAREK: Nothing further for the agent at
20 this time, Your Honor.

21 Thank you.

22 THE COURT: All right. I had a couple of
23 questions. I want to make sure I have the record. Can
24 you just stay there, Mr. Marek? You may have some
25 follow-up questions before Mr. Jennings has an opportunity

1 to cross-examine.

2 So when we talked about the Minor Victim One and
3 Minor Victim Two, you indicated that they were 14 and 13
4 years old respectively at the time that they had sent
5 these images.

6 How old were they when they were interviewed?

7 THE WITNESS: I do not recall.

8 THE COURT: Okay. What I'm trying to get at was
9 how old was the defendant at the time that these minor
10 images were apparently received from the 14 and 13 year
11 old? I note that the indictment starts with April of
12 2021.

13 THE WITNESS: I don't recall that information at
14 this time.

15 THE COURT: Mr. Marek, do you have anything that
16 would refresh his memory as to that?

17 MR. MAREK: One second please, Your Honor.

18 Not among the documents I have with me. Possibly --
19 possibly on my phone, but nothing that I can print out and
20 that I can show you.

21 THE COURT: Okay. And then I want to make sure
22 that I understand because this was loud behind me,
23 Mr. Marek. This is more of a question for you, but you
24 may inquire of the agent. I'm a little lost on Count
25 Three as to whether or not the advertisement posted links

1 to videos or pictures of Minor Victim One or Minor Victim
2 Two.

3 MR. MAREK: Could I ask a few follow-up
4 questions?

5 THE COURT: Please, if you would, sir.

6 **DIRECT EXAMINATION CONT'D**

7 BY MR. MAREK:

8 Q. Again, Agent McCourt, you've reviewed the indictment,
9 correct?

10 A. Correct.

11 Q. Have you also -- are you familiar with Minor Victims
12 Three, Four, and Five as far as the fact that they exist?

13 A. Yes.

14 Q. And are Minor Victims Three, Four, and Five children
15 who have been identified and located by the FBI?

16 A. Yes.

17 Q. Are Minor Victims Three, Four, and Five -- were each
18 of them subjected to forensic interviews?

19 A. Yes.

20 Q. And each of those -- they're all boys; is that
21 correct?

22 A. Yes.

23 Q. Did each of those boys disclose having disseminated
24 child sexual abuse material of themselves?

25 A. Yes.

1 Q. Is it your testimony that the advertisement that is
2 charged in Count Three charges posts that The Revenant
3 made disseminating or making available for download child
4 sexually abusive material featuring Minor Victims Three,
5 Four, and Five?

6 A. Yes.

7 Q. I don't know if I've asked this before, but did each
8 of those boys disclose that they were under the age of 18
9 when they sent those images?

10 A. I do not recall that right now.

11 Q. In any case, Minor Victims Three, Four, and Five as
12 well as -- Minor Victims Three, Four, and Five as well as
13 another victim that was the subject in Count Three; is
14 that correct?

15 A. That's correct.

16 MR. MAREK: I think, Your Honor, those are the
17 follow-up questions that I have on Count Three.

18 THE COURT: All right. Mr. Marek, what I was
19 getting at is I want to know, did he ever attempt to
20 distribute Minor Victims One or Minor Victims Two either
21 CSAM material in the form of digital images or videos, if
22 your agent knows.

23 THE WITNESS: Regarding MV1 and MV2, I do not
24 recall at this time if he ever attempted to disseminate
25 that material.

1 THE COURT: All right. And then with respect to
2 Red Lucid, I'm not sure I'm saying it right again, my
3 apologies. I'm just saying "Red Lucid," and you can
4 correct me at the appropriate time. I want to know when
5 this document was created if you can tell me what age the
6 defendant was at the time that he created this document?
7 If there's any circumstantial evidence that you can point
8 to or any solid day/time frame or any file creation date.

9 MR. MAREK: Do you recall whether there was a
10 create date on the iCloud note in which you found the
11 Operation Red Lucid information?

12 THE WITNESS: I'm sure there is. I just don't
13 recall what that date is at this time.

14 Q. (BY MR. MAREK) Were there any circumstantial factors
15 that suggested how old the defendant was or whether the
16 defendant was an adult or how long ago the information
17 about the child that was the subject of Operation Red
18 Lucid was gathered?

19 A. Not that I could recall definitely at this time.

20 THE COURT: All right. Mr. Marek, I think I
21 gave you the follow-up questions based on the Court's
22 questions, but if there's anything else that you would
23 like to follow up with him on, I'm sure -- you're welcome.
24 I may have opened the door or two for you, so if there's
25 anything else that you have of this witness, please

1 inquire.

2 MR. MAREK: Not for the moment, Your Honor.

3 Thank you.

4 THE COURT: All right. May the witness be
5 cross-examined at this time? Do you pass the witness?

6 MR. MAREK: Yes, Your Honor.

7 THE COURT: Mr. Jennings, you may cross-examine,
8 sir.

9 MR. JENNINGS: If I may have a brief moment,
10 Your Honor.

11 THE COURT: Sure. Take all the time that you
12 need.

13 MR. MAREK: Your Honor, do you mind if I flip
14 through my phone at counsel table looking for something?

15 THE COURT: No. I don't want to see it, but go
16 ahead. I understand.

17 I think it's important that we get to the facts of
18 the matter, so.

19 MR. MAREK: Thank you, Your Honor.

20 THE COURT: Thank you for asking, Mr. Marek. I
21 appreciate it.

22 MR. JENNINGS: May I pull the podium back a
23 little bit?

24 THE COURT: Yeah, whatever you need to do,
25 Mr. Jennings.

CROSS-EXAMINATION

BY MR. JENNINGS:

Q. Good morning. I just want to ask, first, did you write any reports or affidavits for anything about this case?

A. Myself?

Q. Yes.

A. I did not.

Q. You did not?

A. No.

Q. Okay. So in your testimony today you mentioned that sort of evidence or post about a U-Haul; is that correct?

A. Yes.

Q. Was there any actual evidence that Mr. Black rented a U-Haul?

A. I do not recall.

Q. Or any evidence that he took steps to enact that plan to rent a U-Haul?

A. I don't recall at this time.

Q. Was there, during the investigation -- when did you begin this investigation?

A. Approximately a year, year and a half ago.

Q. Okay. In the year and a half that you have been investigating the case, did you see any evidence that there was any actual physical contact between Mr. Black

1 and any of the victims?

2 A. Not that I recall at this time.

3 Q. Okay. Did you see any evidence where he attempted to
4 meet up with anybody?

5 A. That was a minor?

6 Q. Yes. One of the victims involved in the case?

7 A. Not that I can recall.

8 Q. So as of this time, after more than a year-and-a-half
9 investigation, there's no evidence of any actual
10 arrangement to meet up on any actual plan to go and meet
11 somebody?

12 A. I don't know that information.

13 Q. So as far as you know, after investigating for a year
14 and a half the allegations are limited to Internet
15 communication?

16 A. To my knowledge.

17 Q. Okay. So as of this time between Minor Victims One,
18 Two, Three, Four, Five, there was no evidence of any
19 physical contact.

20 A. Not to my knowledge.

21 Q. Okay. To your knowledge, is there any evidence that
22 any of these victims were local?

23 A. I don't know that information right now.

24 Q. But you interviewed the victims.

25 A. I, myself, did not interview them, but they have been

1 interviewed.

2 Q. And you don't know whether any of them reside in the
3 State of Oklahoma?

4 A. I do not know.

5 MR. JENNINGS: Okay. Thank you.

6 THE COURT: All right. Mr. Marek, any
7 follow-up?

8 MR. MAREK: Yes, Your Honor. So I have answers
9 to some of the Court's inquiries.

10 THE COURT: Did you want to refresh his memory
11 with your phone, because I'm not going to give you a hard
12 time if you need to do that?

13 MR. MAREK: Well, Your Honor I was going to say
14 that I could do that or if the Court will accept a
15 proffer.

16 THE COURT: I will accept a proffer. Your agent
17 didn't give us much help. There was a lot of "I don't
18 recall, "I don't know."

19 MR. MAREK: I'd be happy to proffer it.

20 THE COURT: Please, proffer it.

21 MR. MAREK: Yes, sir.

22 Your Honor, the Court inquired about whether either
23 Minor Victims One and Two were the subject of Count Three
24 Advertisement.

25 THE COURT: Yes.

1 MR. MAREK: And Minor Victim Two is included as
2 one of the posts that the government is alleging were the
3 advertisement count.

4 Minor Victim Two is local, and I don't want to say
5 too much about where he is. I'll say that he lives within
6 driving distance of the defendant.

7 Minor Victim Three disclosed in his forensic
8 interview that he was 16 years of age when the CSAM of him
9 was created and disseminated.

10 Minor Victim Four disclosed that he was 11 years old
11 when the child pornography of him was created and
12 disseminated -- excuse me. When it was created.

13 Minor victim Five, there is a statement made by The
14 Revenant in the post regarding Minor Victim Five that
15 describes The Revenant's baiting Minor Victim Five. And
16 what The Revenant says is that it took good convincing and
17 it helps that he just turned 13, so he's still very naive.
18 The same boy wouldn't have done any of this if he's baited
19 at age 15 or 16 most likely. And the reason he was saying
20 that is because what this 13-year-old did in Count Five is
21 expose his anus to the camera as well as take videos of
22 himself masturbating at the request of whatever Internet
23 user baited him.

24 And that would conclude my proffer, Your Honor.

25 THE COURT: All right. Just so we're clear you

1 were somewhat vague to me. The Court wants to know, Minor
2 Victim Number Two, I want to know what the nature of the
3 advertisement was with respect to Minor Victim Number Two
4 as it related to Count Three.

5 MR. MAREK: On December 26, 2021, The Revenant
6 posted to the website regarding Minor Victim Two and he
7 said, this is, and used Minor Victim's Two real first
8 name, This is Minor Victim Two from a famous TikTok family
9 account. I baited him in 2021. Pardon my language, Your
10 Honor. He says, "He sucks his fingers, shakes and slaps
11 his ass, jerks and cums. There are a lot more videos
12 included than just the ones in the thumbnails. Enjoy!"

13 That post included links to download child
14 pornography of Minor Victim Two. And Minor Victim Two
15 disclosed in his forensic interview that he was 13 when he
16 created that child pornography, and one of the linked
17 videos that can be downloaded from that post shows Minor
18 Victim Two in the bathroom, pulling his pants down and
19 grabbing his penis simulating masturbation.

20 THE COURT: All right. Thank you.

21 Mr. Jennings, did you have any follow-up that you
22 wanted to do with this Agent based on my proffer?

23 MR. JENNINGS: No, thank you, Your Honor.

24 THE COURT: Thank you, Mr. Jennings. I
25 appreciate it.

1 All right. Mr. Marek, you may present further
2 evidence.

3 MR. MAREK: May Agent McCourt step down?

4 THE COURT: I'm going to see if you have any
5 future evidence first.

6 Do you have any further evidence?

7 MR. MAREK: Oh, no, sir. Thank you.

8 THE COURT: All right. May the agent step down
9 and be excused?

10 MR. MAREK: Please.

11 THE COURT: All right. Agent, you're free to
12 step down. You can stay if you would like.

13 All right. Mr. Jennings, I believe the government
14 doesn't have any further evidence to present on this
15 matter. I'd pleased to hear any proffers that you have or
16 any evidence that you desire to present.

17 MR. JENNINGS: Your Honor, I have a brief
18 proffer and then argument.

19 THE COURT: All right. Let's go ahead and do it
20 from the podium.

21 Thank you, Mr. Jennings.

22 And I would tell both of the parties that I received
23 a pretrial services report that details the defendant's
24 ties to the family as well as his parents' residence, as
25 well as his work history. I don't know if the parties

1 have received that or not. If they have I will ask
2 whether or not you want me to consider that as part of
3 detention or release. So please go ahead, Mr. Jennings.

4 MR. JENNINGS: Yes, Your Honor. Defense would
5 like the court to take note of probation's recommendation.

6 THE COURT: All right. So I will take note of
7 the entirety of the report.

8 Mr. Marek, do you any objection to that?

9 MR. MAREK: No, Your Honor.

10 THE COURT: All right. So I will take the
11 entirety of the report in, so that gets you the good and
12 the bad so to speak.

13 Mr. Jennings.

14 MR. JENNINGS: Thank you, Your Honor.

15 First, I would like to proceed by just a brief
16 proffer. After speaking with Mr. Black's parents and
17 Mr. Black, I have learned that he attended church for
18 quite some time, and I asked Mr. Black's parents to reach
19 out to the church to see if the pastor and the deacon
20 there would write a character letter on Mr. Black's
21 behalf. They have written two letters on Mr. Black's
22 behalf and signed both of them.

23 Pastor Gary Flynn speaks about how he's known
24 Mr. Black for over ten years. Mr. Black is an avid
25 church-goer and that he was baptized with the church, and

1 believes that Mr. Black is overall a good individual.

2 Mr. Dan Kirk, will be the deacon of the church, also
3 wrote a similar character letter speaking of what a nice
4 young man Mr. Black is and about he always has a good
5 attitude, and he's willing to help whenever he's needed
6 to.

7 That is Pastor Gary Flynn of the Salem Baptist Church
8 and the Deacon, Dan Kirk.

9 Mr. Black's parents would also like the Court to know
10 that they will help with transportation if released. So
11 Mr. Black can go back to their home where they have
12 resided -- all resided for over 11 years; that they will
13 ensure that he is compliant with all court orders and bond
14 conditions. And, again, that they will make sure that he
15 is able to make every court date.

16 And that is all for proffer, Your Honor.

17 THE COURT: Are his parents present in court
18 today?

19 MR. JENNINGS: Yes, they are.

20 THE COURT: Okay. Thank you.

21 All right. Mr. Marek, let's go ahead and give you
22 the opportunity, since you're the movant, to argue first
23 and then we'll give Mr. Jennings a say.

24 MR. MAREK: Your Honor, I would move for either
25 judicial notice or other recognition of the indictment in

1 addition to the pretrial services report insofar as any
2 probable cause findings on Counts, One, Two, and Three.

3 THE COURT: I have taken that into evidence, and
4 I've also recognized that you have triggered the
5 presumption by virtue of just the indictment as well as
6 your motion to detain.

7 MR. MAREK: Thank you, Your Honor.

8 The United States respectfully invokes the rebuttal
9 of presumption based on Counts One, Two, Three, which each
10 refer to minor victims, as well as Section 2251 of Title
11 18, United States Code.

12 I will briefly, as brief as I can, address the
13 factors in Section 3142(g) beginning with the nature and
14 circumstances of the offense charged, which was largely
15 addressed by Special Agent McCourt. The offenses charged
16 are crimes of violence as defined by federal law, and
17 these crimes each involve a minor victim, which also
18 applies to Count Four in addition to Counts One, Two, and
19 Three.

20 3142(g)(2) addresses the weight evidence against the
21 person, and the same Section 3142, and I think it's (j),
22 refers to no evidence presented at the detention hearing
23 having anything to do with the presumption of innocence,
24 but the weight of the evidence against the person is a
25 factor for the Court to consider, and the government

1 respectfully submits the evidence against Mr. Black is
2 very strong.

3 The first thing that needs to be done is a connection
4 between The Revenant, who is probably beyond dispute,
5 engaging in production and distribution and possession of
6 child pornography by The Revenant's own admission,
7 regardless of who the identity of the person controlling
8 that count is. There is significant evidence connecting
9 Landon Black to The Revenant account on the website
10 referred to search warrant returns, information from
11 Mr. Black's iCloud account, as well as his physical
12 devices seized during the search warrant revealed login
13 information for The Revenant, and descriptors of The
14 Revenant's activity.

15 The National Center for Missing and Exploited
16 Children have made a particular IP address the subject of
17 at least 14 cyber tipline reports as Agent McCourt
18 testified. That is significant because when foreign law
19 enforcement source kicked off this investigation by
20 advising domestic law enforcement that a particular IP
21 address was involved on this dark website, that was the
22 same IP address that had been the subject of multiple
23 cyber tipline reports dating back, as Agent McCourt
24 testified, to 2019.

25 Section 3142(g)(3) refers to a myriad of subfactors

1 including the person's character, which no more really
2 needs to be said than the fact that The Revenant, who we
3 believe is Landon Black, was bragging about using
4 deception to victimize a series of children on the
5 Internet. In other cases on the cyber tipline reports
6 there was information that he was disseminating child
7 pornography, and so I think that the person's character
8 does not need to be elaborated on.

9 The person's employment and, by the way, I'm not
10 addressing every single subfactor, just the ones that the
11 government finds relevant. So I recognize the pretrial
12 services report. I recognize its recommendation by the
13 probation office. And so I respectfully disagree with
14 that. I'm just going to try to cut my speech down by
15 jumping to the factors that I think are relevant.

16 One of those is the employment of the defendant.
17 This is an interesting area because the pretrial services
18 report indicate that the defendant was employed for about
19 four months at Wal-Mart most recently. One week of
20 employment in 2019.

21 He reports that he's able to work, but after the
22 search warrant was executed at his house in December of
23 '22 and him assuming or anticipating criminal charges, he
24 lost his desire to work.

25 So not only is that an admission that Mr. Black is

1 not employed -- now, it's true that he says that he's
2 willing to work if released, but I don't think that's very
3 persuasive to the Court because Mr. Black, understandably
4 is very interested in being released and would probably do
5 a lot of things if he could be released.

6 Another reason I think that this is an interesting
7 admission on Mr. Black's part, this losing his desire to
8 work, is that a few paragraphs down on page two of the
9 pretrial services report, the defendant indicates no
10 history of mental health treatment, substance treatment
11 history, or substance abuse treatment. The government has
12 no information about Mr. Black's use or non-use of
13 substances. However, this is an indication of no mental
14 health concerns that is totally at odds with his being
15 so -- well, he lost his desire to work and I don't think
16 it takes much of an aggressive extrapolation to determine
17 why that is.

18 And the way that I review this admission, there is a
19 sense of futility and despair that is evoked by Mr. Black
20 in saying that he lost his desire to work. I think that
21 the Court should consider very carefully when deciding a
22 whole bunch of other factors, including whether there are
23 any conditions that would ensure the defendant's safety if
24 he were released.

25 The defendant's length of residence in the community

1 and community ties, based on the pretrial services report,
2 the government has nothing to rebut that. No other
3 information.

4 Past conduct. I feel like I've already addressed,
5 which sort of goes to Mr. Black's character as well.

6 The government has no information on criminal history
7 the probation office found except for past conduct. I
8 think the past conduct is in the detention statutes
9 because we need to be looking at what this person was
10 doing even if it didn't result in an arrest or criminal
11 charges. And the character of Mr. Black, I haven't
12 addressed in my argument, but that did come out in
13 testimony, is the indication that he was stalking or at
14 least obsessively interested in two minor children.

15 Moving along to (g)(4), which is the nature of and
16 seriousness of danger to any person or their community
17 that would be posed by the person's release.

18 Mr. Black's father was interviewed for verifications
19 in the pretrial services report. It indicated that he
20 said, Mr. Black's father, advised there were firearms in
21 the home. He advised some of them are owned by the
22 defendant. However, Mr. Black advised that all of the
23 firearms are stored in a locked safe in the home that he
24 only has the combination to. If the Court were to accept
25 that as true, as Special Agent McCourt indicated, that was

1 not the case when Special Agent McCourt was in the home.
2 It may be true now that the items are in a locked safe,
3 but I query whether Landon Black truly has no ability to
4 retrieve his own weapons from his father's safe in his
5 father's house. The government is doubtful about that.
6 And firearms that appear to be AR-15-style ammunition was
7 observed by Agent McCourt as well, as well as the stalking
8 of the obsession indication. The nature and seriousness
9 of a danger to any person or the community is a factor
10 that the government does submit supports detention in this
11 case.

12 Your Honor, as far as delving into that word
13 "danger," the conduct in which Mr. Black has engaged has
14 led to humiliation, trauma, reputation destruction, and in
15 other cases what he has done has led to the untimely loss
16 of life by suicide of victims, and. I want to emphasize
17 the strict reading of "danger" to mean physical risk of
18 harm, such as that might be caused by a gun. Restricting
19 that definition to physical harm would not be consistent
20 with the purposes of Section 3142.

21 And so I would ask Court to look at the emotional and
22 psychological harm that has been done to the victims and
23 more importantly for our purposes today, would probably
24 continue to be done if Mr. Black we're released.

25 Mr. Black committed his conduct entirely using

1 Internet-accessible devices. Mr. Jennings ably inquired
2 of the agent on cross-examination. Was there any
3 indication that Mr. Black engaged in hands-on conduct, and
4 the answer is no. But that -- that information cuts both
5 ways. Because Mr. Black has shown himself to be a very
6 savvy user of technology and of the Internet. And so
7 savvy, in fact, that he has fooled multiple teenagers and
8 teenagers using the Internet and social media are famously
9 not unintelligent. He is fooling some of the smartest
10 users of smart devices in this country. And Mr. Black is,
11 to his credit, appears to be very able at psychological
12 manipulation as well as technological manipulation.

13 The Court should pause in considering whether these
14 recommended conditions of release could possibly be
15 monitored in Mr. Black's case because of what we know
16 about his facility with technology.

17 Item (7)(g), avoid all contact directly or indirectly
18 with any person who is or may be a victim or witness in
19 the investigation or prosecution.

20 The government and the probation office will have no
21 practical way of making sure that Mr. Black is not making
22 contact with the victims, that he's not going to contact
23 the victims using landonlol@icloud.com.

24 This case began with Mr. Black using subterfuge and
25 false identities when he contacted people.

1 Item (7)(t) has to do with the use of Mr. Black's
2 computers, mobile device, or other devices capable of
3 connecting to the Internet. When we had Special Agent
4 McCourt testify about the dark web traffic coming from
5 Mr. Black's residence and eventually The Revenant on that
6 website being tied to Mr. Black, that was relevant in
7 determining whether item (t) can practically be imposed on
8 Mr. Black. Because as the Court knows, the dark web or
9 Tor network are used to hide activity, and there is no
10 reason that the government knows of to assume that
11 Mr. Black's deceptive activity on the Internet would cease
12 if he were released. In fact, since the stakes would go
13 up significantly, quite the contrary.

14 Ditto with item (u), which concerns sexually explicit
15 conduct. Item (v), the defendant shall have no
16 intentional [inaudible] contact directly or indirectly
17 with any victim or minor.

18 Again, his contact with victims and minors, who he
19 turned into victims, happened on the Internet. The
20 probation office, not even the government, not even the
21 FBI has a practical, economical way of ensuring that
22 Mr. Black abides by these conditions.

23 Of particular concern to the United States in this
24 case, what could happen if Mr. Black is released, the
25 government is concerned about the possibility of

1 destruction of evidence as the investigation is ongoing.
2 A few victims have been interviewed, but we don't know
3 whether there are other ones and whether if there are
4 other ones, they will be interviewed as well. We do want
5 to make sure that the integrity of the investigation is
6 preserved.

7 We are concerned that Black may contact victims or
8 other families because they are anonymized in the
9 indictment and they're referred to as Minor Victims One
10 and Two and there's no reference to Three, Four, and Five.
11 But in the discovery, there are references to those
12 victims. And more importantly, Landon Black knows who
13 these kids are. He knows who they are. The forensic
14 analysis of his computer showed that he kept careful
15 records of who they are, where they live, and in some
16 circumstances has occurred, as Special Agent McCourt said,
17 even more, very detailed information on these kids.

18 The United States is concerned that Mr. Black may
19 harm himself or other people or both. He has opportunity
20 because there were guns found not only in his home, but in
21 his bedroom. As I said before, although the crimes
22 charged in the indictment were using the Internet, at
23 least one of them lives within driving distance of Black
24 and he knows where that child is.

25 Motive. Motive to harm himself or other people.

1 This is a young man. He does not present as the typical
2 jail detainee or federal prisoner. For lack of a better
3 term, he looks -- he presents to the court in a soft
4 manner. He is facing substantial exposure to the federal
5 prison system, and suicide is the ultimate risk of
6 non-appearance, Your Honor.

7 Black's mental health, according to the pretrial
8 services report, is unremarkable, but we didn't need
9 Black's comment about lacking the desire to work to assume
10 that his mental health would have dropped off the cliff
11 after federal agents raided his house, took his devices,
12 and began to search through them.

13 What we had in this case, Black's own statement that
14 he was working at Wal-Mart, and he's capable of working,
15 and he lost his desire to work. If he lost his desire to
16 work, and actually said that to this Court through the
17 probation office, what else has he lost a desire to do?
18 It wouldn't be the first time that somebody with no
19 criminal history, no exposure to a jail, no exposure to a
20 poison, decided to harm himself or others.

21 And in our position, there's no condition or
22 combination of conditions that would prevent him. Where
23 there's a will there is a way, gun safe or otherwise, Your
24 Honor.

25 Your Honor, the United States respectfully submits

1 the defendant will not be able to rebut the presumption.
2 There's no combination of conditions that would reasonably
3 assure Mr. Black's appearance as required and the safety
4 of any other person in the community. We ask that a
5 detention order be entered on the 3142(b).

6 Thank you.

7 THE COURT: All right. Thank you, Mr. Marek.

8 All right. Mr. Jennings, if you'll take the podium,
9 please.

10 MR. JENNINGS: First, Your Honor, I would like
11 to put into context for the Court that the search warrant
12 happened in December of 2022, nearly 11 months ago.
13 Mr. Black has been out on notice of these charges ever
14 since.

15 THE COURT: So what I'm going to ask you to do,
16 Mr. Jennings, is I'm going to allow you to reopen because
17 there's no evidence before me, as I recall, of when the
18 search warrant occurred. Do you want to proffer that so
19 you have it in the record?

20 MR. JENNINGS: Yes, Your Honor. As I recall
21 Mr. Marek did mention that date of the warrant.

22 THE COURT: Mr. Marek, did you and I missed it?
23 Did we have the evidence of the search warrant occurred in
24 December of 2022?

25 MR. MAREK: I don't think we have the date in

1 evidence, Your Honor.

2 THE COURT: All right. So we'll just go ahead
3 and take it that the Court missed that, but December of
4 2022, is what I'm going to treat this for evidentiary
5 purposes when the search warrant occurred.

6 Thank you, Mr. Marek.

7 Mr. Jennings, you may proceed, sir.

8 MR. JENNINGS: As the search warrant was served
9 in December of 2022, Your Honor, Mr. Black has been out
10 ever since. That was nearly 11 months ago. There's been
11 no new allegations. There's been no evidence to suggest
12 that Mr. Black is going to harm himself.

13 As far as the lack of desire to work, I think this
14 Court can easily recognize that these charges are severe.
15 To be charged with crimes is embarrassing enough,
16 especially when allegations are this grave and serious. I
17 think it's not abnormal for a person not to want to go
18 into a work environment after these charges have been made
19 public.

20 I'll first go and get into the seriousness and the
21 nature of the offense and the weight of the evidence.

22 I would like to point that the defense is not trying
23 to downplay the seriousness of the offense. We know that
24 the accusations are grave. We understand that there are
25 multiple minor victims. We know that this is a

1 presumption case, so we're not trying to downplay the
2 seriousness of the allegations.

3 However, to put into context of the allegations, the
4 indictment is limited to allegations of Internet
5 communication and possession. We understand, as we've
6 heard testimony that there were mentions of an idea to get
7 a U-Haul. However, we've also heard testimony of evidence
8 today there was never any actual steps taken to enact such
9 a plan. We've not heard any evidence that there was any
10 hands-on conduct or any actual meeting of Mr. Black and
11 any of the victims.

12 Again, so that the indictment is limited to Internet
13 communication, telephone communication, and possession.
14 For those reasons, we do believe that probation has the
15 resources necessary and they are capable of monitoring
16 Mr. Black's electronic devices, as well as himself with a
17 GPS ankle monitor. And to go against weight of the
18 evidence and the nature, we do believe that probation can
19 mitigate some of this court's concerns to those factors.

20 As far as the history and characteristics of the
21 defendant and the seriousness of risk of danger, if he
22 were to be released as I proffered earlier, Mr. Black is
23 able to return home to his parents' house where he has
24 lived -- where they have all lived for over 11 years.
25 Mr. Black was born and raised in Stilwell, Oklahoma. He's

1 never lived in another county. In fact, he graduated from
2 Stilwell High School where he played on the football team,
3 ran track for the school.

4 As I proffered earlier, he has attended the same
5 church, Salem Baptist Church for over 11 years where, as
6 this Court saw, the deacon and the pastor of said church
7 wrote character letters on Mr. Black's behalf. Mr. Black
8 again has zero criminal history. This is his very first
9 offense. He has zero accusations or allegations of
10 violent conduct throughout that time aside from the
11 allegations in the indictment.

12 And again, furthermore, I think most importantly, we
13 don't have to really live in a world of hypotheticals. As
14 I stated, Mr. Black has been aware of these allegations
15 for at least since December, Your Honor. Again, almost 11
16 months. He has not absconded. He has not tried to run
17 away or hide anything, and, again, he's not committed any
18 new allegations.

19 For those reasons, I think he has proven that, if
20 released, he won't continue to violate any law or violate
21 any law. And he does have the means and resources
22 necessary to be able to come to court. For those reasons,
23 we do leave that there are a combination of conditions
24 that could be placed on Mr. Black that could reasonably
25 assure his appearance in court and could reasonably assure

1 the safety of the community.

2 THE COURT: All right. Thank you, Mr. Jennings.

3 MR. JENNINGS: Thank you, Your Honor.

4 THE COURT: All right. Mr. Marek, I'll give you
5 the last word.

6 MR. MAREK: Two points, Your Honor.

7 Number one, I have not reviewed the character
8 letters. I have no basis to dispute anything in them.
9 Only to point out that I think the content of those
10 letters may change if the people who wrote them were aware
11 of the evidence against the defendant. And on that note,
12 the defendant doesn't know the evidence against him
13 either. As to Mr. Jennings's point that so long has
14 lapsed between December '22, with the search warrant and
15 today, the defendant doesn't know, he has not delved into
16 the search warrant returns of his devices, his iCloud
17 account return. He doesn't know, though, he does not know
18 the weight of the evidence against him in this case.

19 So to assume that he knows what is coming is not
20 necessarily true, I'm sure to Mr. Jennings's point, but
21 that's all I have.

22 Thank you.

23 THE COURT: All right. The court is going to
24 take a brief recess. I want to take my clerk back. I
25 have not worked with this clerk before and I want to

1 discuss it with her and probation. So, we will be in a
2 brief recess about probably ten minutes.

3 (Recess taken.)

4 THE COURT: I show in this case that the basis
5 for the hearing were several grounds, but foremost of
6 importance to the Court was it was a felony involving a
7 minor victim. That, in turn, also created this
8 presumption. I do find that in this case the defendant is
9 entitled to a presumption of innocence and nothing in the
10 hearing nor my findings should be construed to affect that
11 presumption.

12 Under the Bail Reform Act, a defendant must be
13 released prior to trial unless I find that no condition or
14 combinations of conditions exist that will reasonably
15 assure the appearance of the defendant as required and
16 reasonably assure the safety of any other person in the
17 community.

18 In this case, the defendant has presented some
19 credible evidence to rebut the presumption and above. He
20 has indicated that his father, who I believe is present in
21 open court, would act as a third-party custodian of him.
22 He has a significant length of time in the residence and
23 there was some substantial evidence in the pretrial
24 services report that would overcome that presumption.
25 Even though rebutted, the presumption is still a factor

1 that the Court has to consider in determining whether or
2 not the government has met its burden.

3 I find in this case, that the government has not
4 shown me by clear and convincing evidence. I want to
5 stress, Mr. Marek, that is a high standard for the Court.
6 The government has not shown me by clear and convincing
7 evidence that there is no condition or combination of
8 conditions which will reasonably assure the safety of any
9 other person in the community.

10 A cursory review of suggested conditions of release
11 in this case, would give a lot of indications in as much
12 as we have an extremely limited ability for him to have
13 access to the Internet. It is never a situation where we
14 can always say that it's not going to happen, but I have
15 to go with the least restrictive means available for him,
16 and there is clearly a presumption towards release once
17 that burden has been overcome to a degree.

18 So against that backdrop, the probation office has
19 provided significant conditions which would block his
20 ability to utilize the Internet. I have his father, who
21 says he's going to act as a third-party custodian. We
22 have electronic monitoring that is available to us that
23 will let us know should he ever leave his house, and we
24 have ability to have him under home detention.

25 While I get it, Mr. Marek, none of those are

1 absolutes. Those are enough for the Court to essentially
2 have very little choice in this matter when I have that
3 many conditions that are available to him.

4 I also find that the government has not shown by a
5 preponderance of evidence that there are no condition or
6 combination of conditions which will reasonably assure the
7 defendant's appearance as required.

8 Mr. Marek, I want to give you the ability, should you
9 desire to appeal me, to have a ruling, so I'm going to
10 make some specific findings. With respect to the weight
11 of the evidence against the defendant, it does appear that
12 there is substantial evidence, which would link this
13 defendant, at this time and with the evidence that was
14 presented to me at this hearing, there was no other
15 plausible individual. Nonetheless, there appears to be
16 that the defendant has substantial evidence to suggest
17 that he's committed the offenses in the indictment.

18 He is subject to an extremely lengthy period of
19 incarceration as well as supervised release in this case
20 if he's convicted. However, there is absolutely no shred
21 of any prior to criminal history. There is no indication
22 that he has participated in criminal activity while on
23 probation, parole or supervision. In fact, all of the
24 evidence is in the proceeding 11 months since this crime
25 or, excuse me, since December of 2022, the preceding

1 months he's not engaged in any criminal activity. Again,
2 there was no evidence one way or the other, but I have to
3 assume that he has not.

4 There's no history of violence or the use of weapons.
5 There is no history whatsoever of alcohol or substance
6 abuse. There is, apparently, a lack of somewhat stable
7 employment especially given that specific area where he
8 lives. However, I do note that the government has
9 indicated that he broke with that employment at the time
10 this search warrant was, in fact, executed. So I enured
11 that somewhat to your benefit, Mr. Marek. He has an
12 incredibly stable residence. He does have financially
13 reliable resources from his parents as well their
14 able-bodied nature to serve as custodians of him. He has
15 extremely significant family ties to people within the
16 United States, and specifically within the district, and
17 more specifically within that home.

18 He is legally in the United States of America. He
19 has absolutely no prior failure to appear in court as
20 ordered. It appears that he has no record whatsoever. It
21 appears there was no other prior attempts to evade law
22 enforcement in any way.

23 With respect to evidence that he will harm himself,
24 that is purely speculation at this point. While I gather
25 that he is a young man, and it is a very serious situation

1 no one ever brought me any evidence to suggest that he had
2 given one way or the other that he was going to harm
3 himself. I'm merely asked to conclude that because of the
4 charges he would do so. If that was the case, everybody
5 that would come before us would essentially get that
6 presumption. I cannot make that leap, Mr. Marek.

7 There is absolutely no evidence whatsoever that he's
8 done anything to obstruct justice in any way, shape, or
9 form after the December of 2022 search warrant in spite of
10 the fact that I can only assume that he has access to the
11 log-in information that you have. It could very well be
12 that the government may have shut all that down, but I
13 don't have any evidence of that before me.

14 Based on all that evidence, I find that the defendant
15 should be, in fact, be released on conditions. Let's have
16 the defendant come forward.

17 All right. Let's go ahead and show that to them real
18 quick. Mr. Marek, I'm going to show you a copy of the
19 conditions of release that were prepared. There is going
20 to be two additions to that. You can come forward if you
21 haven't received a copy of it yet.

22 MR. MAREK: Is this for me or . . .

23 THE COURT: I'm going to show him this copy, and
24 then I'll add to. Your copy has the original. I wrote
25 two things on it. I'm going to point that out to

1 Mr. Marek.

2 MR. JENNINGS: Thank you, Your Honor.

3 THE COURT: I'm going to call Mr. Marek's
4 attention to number G(7)(g). I have modified that to
5 avoid all contact directly or indirectly with any persons
6 who is or may be a victim, witnesses, investigations, or
7 prosecution that I have written no contact with victims as
8 dictated by the discovery in this matter.

9 And then I also have checked (H), get medical or
10 psychiatric treatment as directed by the pretrial services
11 and sign all the appropriate release forms so pretrial
12 services can monitor compliance.

13 Again, I think if that's needed, I want him to have
14 the ability to have the United States government to help
15 him get that and that's why that was put in. Those are
16 the only two that are different from the form that I've
17 handed you, Mr. Marek.

18 Let's give Mr. Jennings a chance to go over that with
19 his client.

20 THE COURT: All right. Mr. Black, in the back
21 of the courtroom, can you come forward, sir?

22 If you'll just stand there at the rail for a moment.

23 All right. The record should reflect that
24 Mr. Jennings went over that with him since -- spent a
25 substantial amount of time reading through each and every

1 one of those items that's listed on the additional
2 conditions of release. First and foremost, has your
3 client had the opportunity to read those conditions of
4 release, Mr. Jennings?

5 MR. JENNINGS: Yes, Judge.

6 THE COURT: Mr. Black, have you had the
7 opportunity to read those conditions of release?

8 THE DEFENDANT: Yes.

9 THE COURT: Sir, do you have any questions
10 whatsoever about those conditions of release at this time?

11 If you do, I'm going to give you the opportunity to
12 discuss it with Mr. Jennings because you do not want to
13 have any questions on those conditions when it comes time
14 for the Court to make inquiry as to whether or not you
15 have violated them. So do you need any time to discuss
16 any of those conditions with Mr. Jennings?

17 THE DEFENDANT: No.

18 THE COURT: Do you think that you understand
19 them?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You've read all of them?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Mr. Jennings.

24 MR. JENNINGS: Your Honor, we would like a copy
25 for him.

1 THE COURT: He will get one.

2 All right. With that, Mr. Black, we're going to
3 release him. He is going to be placed in your custody.

4 Do you agree to take that custody of him?

5 MR. BLACK: Yes, sir.

6 THE COURT: All right. I want Mr. Black to
7 receive a copy of that as well. I'll give him this one.

8 Go ahead, Mr. Jennings. I'm sorry.

9 Has he executed the bond in this case? Has the
10 defendant signed the paperwork?

11 MR. JENNINGS: Yes, Your Honor.

12 THE COURT: Can you return that to the Court,
13 please?

14 In addition to that I'm going to order him released
15 on a \$10,000 unsecured bond in this matter. He'll need to
16 authorize that and sign it if he has not done so.

17 I've been handed the declarations as well as the
18 conditions of release, which the defendant has executed.
19 I'm signing that as well as the appearance bond in this
20 matter.

21 The defendant will be notified of his next court
22 appearance in this matter via Mr. Jennings. Returning
23 that to the court clerk.

24 Now in a minute Mr. Marek is going to have the floor
25 and he may very well appeal my decision, which may prevent

1 you from not being released at this time, but the law is,
2 is that the appeal will need to be heard promptly. So I
3 wanted to not give you a false sense of hope.

4 Mr. Black, you can have a seat, sir. We'll make sure
5 that you have those conditions.

6 All right. Mr. Marek, what's your pleasure, sir?

7 MR. MAREK: Your Honor, I expect the government
8 will pursue an appeal and we respectfully ask that the
9 order be stayed.

10 THE COURT: Okay. I don't think I have any
11 choice, but I want to make sure that we're on the same
12 page pursuant to the local criminal rules, Mr. Marek. I
13 think by 5:00 today you have to have that appeal on form
14 and something on file with that. So take a look at the
15 local rules, because my order will be stayed until 5:00
16 unless that isn't done.

17 You've got enough time today. I believe the rule
18 says or the order says if we're close to 5:00 you get
19 until the next morning to do something perfunctory, but we
20 have almost six hours until 5:00 today. So I will stay it
21 until 5:00.

22 So what that means to you, Mr. Black, is that you
23 will not be released at this time. Mr. Marek desires to
24 appeal my decision to the next judge. If he doesn't have
25 something on file by 5:00 today I will lift that stay.

1 And, Mr. Marek, it's been a while since I've looked
2 at that rule, and it's been a while since I've used that
3 rule. So if I'm incorrect, please let the court know
4 immediately upon email to the Court as well as,
5 Mr. Jennings.

6 All right. Anything further, Mr. Jennings?

7 MR. JENNINGS: No, Your Honor.

8 THE COURT: All right. Anything further,
9 Mr. Marek?

10 MR. MAREK: No, Your Honor. Thank you.

11 THE COURT: All right. With that, we'll be in
12 recess.

13
14 (RECORDING CONCLUDED AT 11:00 a.m.)

15 **CERTIFICATE OF REPORTER**

16 I certify that the foregoing CERTIFIED TRANSCRIPT
17 is a transcription of all requested matters contained on
18 the recorded proceeding.

19 DATE: November 3, 2023

20
21 /S/ Shelley Ottwell, RPR
22 Shelley Ottwell, RPR, CSR
23 U.S. STENOGRAPHER
24
25